

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554
MAR 19 2001

OFFICE OF
MANAGING DIRECTOR

86-285

Suzanne S. Goodwyn
Pepper & Corazzini, LLP
1776 K Street, N.W., Suite 200
Washington, DC 20006-2334

RE: Request for Waiver (Section 9, Late Fee), MDS 1999
Regulatory Fees for Johnny A. McLain (WMI375, WMI371,
WNTI467, WMY446); Jeffry Grumm (WNTI399); Norman
Herrington (WNTI488)
Fee Control Number 9910138835872002

Dear Ms. Goodwyn:

This is in response to your request on March 30, 2000 to waive the penalty of \$427.50 imposed upon the late payment of the applicable annual regulatory fee for Johnny A. McLain.

Title 47, United States Code, §159(c) and Commission rule 47 CFR §1.1164 impose a penalty for untimely payment equal to 25% of the amount of the regulatory fee. The penalty may be excused only where the delay resulted from bank error "as evidenced by an affidavit of an officer of the bank" (47 CFR §1.1164(b)).

Accordingly, the Commission denies your request for a waiver, and requests that you make payment of \$427.50 within 30 days from the date of this letter. If you have any questions concerning this letter, please contact the Credit & Debt Management Group at (202) 418-1995.

Sincerely,



Mark A. Reger
Chief Financial Officer

99/138835872002

PEPPER & CORAZZINI, LLP
ATTORNEYS AT LAW

1776 K STREET, N.W., SUITE 200
WASHINGTON, D.C. 20006-2334

SUZANNE S. GOODWYN
EXT. 230
SSG@COMMLAW.COM

RECEIVED
MAR 30 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

(202) 296-0600
FAX (202) 296-5572
WWW.COMMLAW.COM

March 30, 2000

Via Facsimile (418-2843)

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals
445 Twelfth Street, S.W.
Washington, D.C. 20554

Attn: Ms. Theresa Meeks

Re: Payment of MDS 1999 Regulatory Fees for:
Johnny A. McLain - WMI375
WMI371
WNTI467
WMY446
Jeffrey Grumm - WNTI399
Norman Herrington - WNTI488
Request for Waiver of Late Penalty

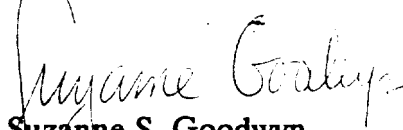
Dear Ms. Meeks:

On September 22, 1999, John McLain submitted \$1,710.00 by credit card for the 1999 regulatory fee for the above-referenced stations through this office. While this fee was timely submitted, it was unfortunately filed at the Secretary's office and not to Pittsburgh as noted on the cover letter to this filing, a copy of which is attached. We have investigated this matter and have determined that the error occurred because the staff member who usually handles these filings was out for surgery and the fee was submitted to the wrong filing address by a temporary assistant. We believe this was a singular mistake as we are not aware of any other clients who have received late penalty notices. Please note that we are taking extra precautions to ensure that this type of situation does not occur again in the future. Accordingly, because this filing was timely submitted and the licensees made every effort to ensure the Commission's deadline was met, it is respectfully requested that the late penalty being assessed against these stations be waived.

Ms. Theresa Meeks
March 30, 2000
Page 2

Should there be any questions regarding this information, please communicate directly with the undersigned.

Very truly yours,


Suzanne S. Goodwyn
Counsel to John McLain

Enclosure
cc: Mr. John McLain
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KPT5

PEPPER & CORAZZINI, LLP
ATTORNEYS AT LAW

1776 K STREET, N.W., SUITE 200
WASHINGTON, D.C. 20006-2334

FILE COPY
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ROBERT F. CORAZZINI
EXT. 222
RFC@COMMLAW.COM

(202) 296-0600
FAX (202) 296-5572
WWW.COMMLAW.COM

September 22, 1999

RECEIVED

Federal Communications Commission
Regulatory Fees
P.O. Box 358835
Pittsburgh, PA 15251-5835

SEP 22 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY


Re: 1999 Regulatory Fee

Dear Sir or Madam:

There is transmitted herewith on behalf of John McLain, FCC Form 159/159-C and a check in the total amount of \$1,710.00 in payment of the appropriate regulatory fee for MDS/MMDS station licensees John McLain (WMI375, WMI371, WNTI467 and WMY446 Sierra Vista, AZ); Jeffry D. Grumm (WNTI399 Sierra Vista, AZ); and Norman R. Herrington (WNTI488 Sierra Vista, AZ).

Should there be any questions concerning this filing, please communicate directly with the undersigned.

Very truly yours,


Robert F. Corazzini
Counsel for John McLain

Enclosure

bcc: Mr. John McLain
RFC/kaw
i:\wp\2463\regfee.99



FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF GENERAL COUNSEL

memorandum

TO: Tom Putnam, OMD
Mark Reger, CFO

FROM: Paul K. Cascio, OGC

SUBJECT: Request for Waiver (Section 9, Late Fee), MDS 1999 Regulatory Fees for Johnny A. McLain (WMI375, WMI371, WNTI467, WMY446); Jeffry Grumm (WNTI399); Norman Herrington (WNTI488), Fee Control Number 9910138835872002

DATE: September 19, 2000

Ms. Suzanne S. Goodwyn, Pepper & Corazzini, LLP, counsel for John McLain, wrote on March 30, 2000 requesting that the Commission waive the late fee imposed by 47 USC 159(c)(1). Ms. Goodwyn did not pay the \$427.50 late fee.

Ms. Goodwyn alleges that the regulatory fees for the listed stations were filed with the Commission's Secretary instead of at the announced required location at Pittsburgh, PA. Allegedly, the error resulted from the act of an inexperienced assistant.

Pursuant to 47 U.S.C. §159(c), the Congress required the Commission to "prescribe by regulation an additional charge which shall be assessed as a penalty for late payment of fees Such penalty shall be 25 percent of the amount of the fee which was not paid in a timely manner." The Commission's rule at 47 CFR §1.1164 specifically states that "[a]ny late payment or insufficient payment of a regulatory fee, not excused by bank error, shall subject the regulatee to a 25 percent penalty of the amount of the fee of installment payment which was not paid in a timely manner." Petitioner does not allege that late receipt was the result of bank error; accordingly, there is no excuse for the delay or a basis for relief.

Ms. Goodwyn's explanation is not a basis for relief; accordingly, the Commission should deny the request.

PEPPER & CORAZZINI, LLP
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SUZANNE S. GOODWYN
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March 30, 2000

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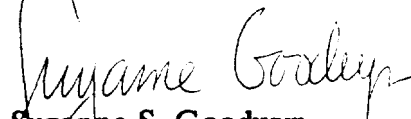
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Page 2

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Very truly yours,


Suzanne S. Goodwyn
Counsel to John McLain

Enclosure
cc: Mr. John McLain
i:\wp\2463\xregfee.wav

2463
Rpt 5

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